Group II. Claims 17-21, drawn to a system for the manufacture of a vaccine using whole cells, classified in class 424, subclass 93.1.

Group III. Claims 22-23, drawn to a nucleic acid molecule encoding an adjuvant or a vaccine, classified in class 536, subclass 23.5.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group I, with traverse. Claims 1-16, are drawn to an adjuvant, a vaccine and the manufacture of a vaccine.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

In the present instance, a search and consideration of the adjuvant and vaccine of Group I will involve a review of literature that will pertain to the system of Group II and, most likely, will include discloure of the nucleic acid molecule of Group III. Moreover, the antigens of Group I

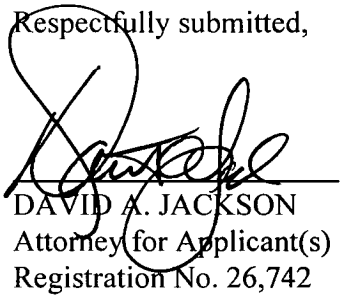
would most likely be prepared by use of the system of Group II to elicit the secretion of suitable quantities of the T-cell dependent and -independent antigens, so that a withdrawal of the requirement at least as to Groups I and II is clearly warranted.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to Group I and Group II is in order.

No fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,



DAVID A. JACKSON
Attorney for Applicant(s)
Registration No. 26,742

KLAUBER & JACKSON
411 Hackensack Avenue
Hackensack, New Jersey 07601
(201) 487-5800

Date: February 20, 1998